

**THE GREATER LONDON AUTHORITY  
ETHICAL STANDARDS REGIME**

**MONITORING OFFICER DECISION NOTICE**

**GLA Case Reference: May 02/2022**

**Decision**

That there **has not been a breach** by the Mayor of London, Sadiq Khan of paragraph 6 (a), (b) and (c) of the Greater London Authority's ("GLA") Code of Conduct for GLA Members<sup>1</sup>, as such there is a finding of no failure to comply with the Code by the Mayor.

**Complaint**

1. On 4 May 2022, I received a complaint from the Rt Hon Grant Shapps MP, who was then Secretary of State for Transport<sup>2</sup> which alleged that Mayor of London, Sadiq Khan, had breached the GLA's Code of Conduct for GLA Members ("the Code"). The complaint concerns two key areas, being (i) the Mayor's involvement in the announcement of the Elizabeth Line opening date during the pre-election period; and (ii) the subsequent statement made by the Mayor about the opening after Transport for London's ("TfL") announcement.

2. It is alleged that this conduct constitutes a breach of the Code of Recommended Practice on Local Authority Publicity ("the Publicity Code"), specifically

*Para 34. "During the period between the notice of an election and the election itself, local authorities should not publish any publicity on controversial issues..."*

*Para 35. "In general, local authorities should not issue any publicity which seeks to influence voters..."*

3. The full complaint is in Appendix A.
4. In considering the complaint, as well as considering the Publicity Code, I have had regard to paragraph 6 of the Code which expressly provides that members of the GLA and the Mayor must have regard to the Publicity Code. Paragraph 6 states that:

*"6. You—  
(a) must not use or attempt to use your position as a member improperly to confer on or secure for yourself or any other person, an advantage or disadvantage; and*

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<sup>1</sup> [GLA Code of Conduct](#)

<sup>2</sup> All references to the Secretary of State contained in this report refer to Rt Hon Grant Shapps MP who was Secretary of State for Transport during the period relevant to this complaint.

*(b) must, when using or authorising the use by others of the resources of your authority—*  
*(i) act in accordance with your authority's reasonable requirements;*  
*(ii) ensure that such resources are not used improperly for political purposes (including party political purposes); and*

*(c) must have regard to any Local Authority Code of Publicity made under the Local Government Act 1986.”*

5. The complaint also refers to the actions of TfL. I do not have any powers or responsibilities for handling any complaints about the conduct of either the TfL Commissioner<sup>3</sup> or officers of TfL. Therefore, my consideration of the complaint is limited to the Mayor's alleged conduct.

## **Procedure**

6. The approved procedure under which complaints are to be considered about a GLA Member's conduct is set out in the Guidance on Making a Complaint About a GLA Member's Conduct ("the Complaints Guidance") which can be found online<sup>4</sup>.
7. I have considered the complaint in accordance with the Complaints Guidance.

## **Informal Resolution**

8. When I received the complaint, I considered whether the complaint was suitable for informal resolution under stage 2 of the Complaints Guidance. I sought views from both the complainant and the Mayor.
9. I decided that informal resolution was not appropriate given the seriousness of the matter which concerned the appropriate use of the GLA's resources in a period of heightened sensitivity in the run up to the local elections. In doing so, I took into account:
- the Code
  - the Complaints Guidance
  - the letter of complaint (see Appendix A)
  - the GLA's Use of Resources Guidance
  - the Publicity Code
  - subsequent correspondence from the Mayor responding to the complaint.

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<sup>3</sup> All references to the TfL Commissioner contained in this report refer to Andy Byford who was TfL Commissioner during the period relevant to this complaint.

<sup>4</sup> [The complaints guidance](#)

10. In accordance with Stage 3 of the Complaints Guidance, I carried out an initial assessment of the complaint. I took into account all of the circumstances, the need for proportionality when dealing with complaints, the wider public interest and the costs associated with investigations. I also sought the views of the GLA's Independent Person, Suzanne McCarthy. Her response was as follows:

*"I have reviewed the letter detailing a complaint addressed to you dated 4 May 2022. I can confirm that I am willing to assist you in this matter as the GLA's Independent Appointed Person.*

*My conclusions regarding the complaint are that considering the seriousness nature of what is alleged and the clear need to gather further information, a formal investigation should be conducted."*

11. On balance and for the same reasons noted above, I decided to carry out an investigation in accordance with Stage 4 of the Complaints Guidance.

## **Methodology and chronology of investigation**

12. Following my initial assessment and decision to investigate this complaint, I wrote to the Secretary of State and Permanent Secretary at the Department for Transport (DfT), to the Mayor and to the TfL Commissioner to gather information regarding the activity which led up to the opening of the Elizabeth Line.
13. All parties responded to my request for information and provided a range of statements, letters, briefings and emails.
14. The complete chronology of the investigation is set out below.

4 May 2022	Letter of complaint received from the Rt Hon Grant Shapps MP, Secretary of State for Transport
5 May	I acknowledged receipt of the letter
12 May	I wrote to the complainant setting out the process with regard to the complaint
12 May	I wrote to the Mayor to advise of the complaint and to set out the process
12 May	Initial papers shared with the Independent Person
7 June	I emailed the Mayor's Chief of Staff to chase for a response should the Mayor wish to make one
8 June	The Mayor's Chief of Staff advised that the Mayor did wish to comment
13 June	I was advised by the Chief of Staff that a response was being drafted

21 June	I advised the Chief of Staff that I would require a response by the end of the week when I would be preparing the Initial Assessment
22 June	The Chief of Staff advised the letter had been chased and would be sent shortly.
24 June	I wrote to the Independent Person to ask for her views on my initial assessment
24 June	The Independent Person provided her views
27 June	I received a letter from the Mayor in response to the complaint
27 June	The Chief of Staff to the Secretary of State wrote to me to request an update on progress with the complaint
29 Jun	I wrote to the Mayor and the Complainant setting out my initial assessment and decision to take the complaint forward for investigation
13 July	I wrote to the Mayor asking a series of questions and to request further information.
13 July	I wrote to the Secretary of State and the DfT Permanent Secretary asking a series of questions and to request further information.
13 July	I wrote to the TfL Commissioner asking a series of questions and to request further information. The TfL Commissioner's office acknowledged receipt.
13 July	I updated the Independent Person on recent activity
29 July	I received a response to my questions from the TfL Commissioner of which I provided to the Independent Person
3 August	I received a phone call from the DfT requesting an extension to the deadline, DfT confirmed their response would be sent to me on 4 August
3 August	I received a phone call from the Mayor's office requesting an extension to the deadline, the Mayor's office confirmed their response would be sent to me by 5 August
4 August	I received an email from DfT to request a further extension to 5 August
5 August	I received an email from the Mayor's office advising of a further short delay to their response.
5 August	I received a response to my questions from the Secretary of State and DfT's Permanent Secretary
24 August	I wrote to the TfL Commissioner to request a copy of a letter which was sent in response to a letter from DfT's Permanent Secretary
24 August	I wrote to DfT's Permanent Secretary to ask for further information regarding the roles of the individuals referenced in the evidence provided by DfT

24 August	The TfL Commissioner's officer supplied the letter I requested on 24 <sup>th</sup> August
5 September	I wrote to DfT's Permanent Secretary to chase the information requested on 24 August
5 September	The DfT's Assistant Private Secretary advised that a response would be sent by the end of the week.
15 September	The information requested was provided
27 September	I wrote to clarify the principles with regard to naming officers and the report publication
3 January 2023	I wrote to the Independent Person to gain her views on the investigation. I received comments from the Independent Person regarding the investigation
4 January	I wrote again to the Independent Person in response to her views, sharing a copy of the Investigation Report incorporating her comments.
13 January	Decision taken.

## Information considered

15. In conducting the investigation, I considered the information provided in the letter of complaint received on 4 May 2022, as well as:
  - The letter and supporting information provided by the Secretary of State and DfT's Permanent Secretary in response to my questions regarding the complaint.
  - The letter and supporting information provided by the TfL Commissioner in response to my questions regarding the complaint.
  - The letters and supporting information provided by the Mayor in response to the complaint and to my questions regarding the complaint.
  - The views of the Independent Person received on 4 January 2023.
16. The elections in May 2022 were London borough council elections, held across the 32 London boroughs. This was not an election for the Mayor of London nor members of the London Assembly who are elected via the Greater London Authority elections.
17. To the extent that I do not specifically mention in this decision notice, evidence or representations which have been raised in correspondence, or otherwise considered as part of my investigation as referred to above, I have taken these matters into account, but they do not change the decision reached.

## **Allegations of breach of the Code**

### ***Application of the Code***

18. I am satisfied that at the time of the conduct complained of the Mayor was acting in his official capacity as the Mayor of London. He was therefore obliged to comply with the Code which includes ensuring appropriate use of the GLA's resources.

### ***Allegations of breach of the Publicity Code and Code of Conduct***

19. The complainant alleges that the Mayor's behaviour constituted a breach of the Publicity Code as set out in paragraph 2 above. In considering the complaint, as well as considering the Publicity Code, I have had regard to paragraph 6 of the Code (as set out in paragraph 4 above) which expressly provides that members of the GLA and the Mayor must have regard to the Publicity Code.

## **Discussion**

20. The complaint concerns two key areas, being (i) the Mayor's involvement in the announcement of the Elizabeth Line opening date during the pre-election period; and (ii) the subsequent statement made by the Mayor about the opening after TfL's announcement. I will address each of these in turn below.

### ***The Mayor's involvement in the announcement of the Elizabeth Line opening date during the pre-election period.***

#### ***a) Complaint and comments in support of complaint***

21. The letter of complaint from the Secretary of State (see Appendix A for full complaint) states that:

*"It is my firm belief that both the announcement of the opening date, and the Mayor's involvement in doing so, contravene the guidance set out in the Code of Recommended Practice on Local Authority Publicity which states:*

*'During the period between the notice of an election and the election itself, local authorities should not publish any publicity on controversial issues ... In general, local authorities should not issue any publicity which seeks to influence voters'.*

*The opening of a £19 billion project quite clearly falls foul of that definition, and it was, I believe, wholly unacceptable for the Mayor of London, in an official capacity, to disregard the requirement for heightened sensitivity the day before polling day. While there are no GLA elections, every London borough is up for election, and as you know the TfL precept is charged on every borough bill. It is therefore my understanding that the Mayor of London should have given due regard to pre-election rules."*

...

*“Such an announcement less than 24 hours before polls opened would clearly have had an impact on the election, and it is my firm belief that the announcement should not have been made, nor should official Mayoral resources been used in responding.”*

***b) The Mayor’s comments***

22. The Mayor provided the following comments on this in his response to me about this element of the complaint:

*“The Crossrail Elizabeth line project is a long-term endeavour made possible by the consistent support of Mayors, governments and political parties, all of different political persuasions. It is a project of national significance, directly or indirectly impacting all Londoners and many others, with around a third of the route outside of Greater London. To my knowledge, none of the people closely associated with the project were standing for election on 5 May, nor was it a point of contention in any local election campaigns – unsurprisingly, given the cross-party support that exists for it.*

*The decision to announce on Wednesday 4 May the opening date for the Elizabeth line was an operational one taken by the Commissioner of Transport for London (TfL). I was notified by the Commissioner that was his intention, subject to a final ‘go-no go’ meeting to be held by him that afternoon. He reported to me that there was a significant amount to do between the announcement and the opening, including changing of branding across the transport network and the setting of staffing rotas.*

*I was clear, when I was informed of this, that it was an operational matter and therefore a decision for the Commissioner. While I did not, and do not, believe that it was wrong for an announcement to be made, I did question him at our meeting about whether it was possible to delay the announcement until after the local elections, given the risk of some people inaccurately suggesting that this was a requirement of the relevant pre-election rules. The Commissioner responded that the only way for the news to not become public was for the opening date to be delayed. Clearly this would not have been in the public interest and therefore an announcement was necessary.”*

...

*“As noted above, the decision to announce the line’s opening was made by TfL and they made the initial announcement. This was welcome, much anticipated and uncontroversial news, which I as Mayor and the government therefore had to respond appropriately to.*

*It would have been perverse for us, as joint sponsors of a £19 billion railway, to not make any comment on this significant news. Indeed, I believe Londoners would have felt it negligent for me not to have done so – which, given my status as a leading political figure in London, could have generated the very controversy that the rules require us to avoid. I note that the Transport Secretary also publicly welcomed the imminent opening of the line.*

*It is notable that the complainant does not in any way set out in his letter how the announcement of the opening of the Elizabeth line was controversial. Something is not*

*controversial merely because someone, perhaps with a political purpose in mind, alleges that it is.*

*Indeed, the previous Mayor officially opened London Overground on 27 April 2010, just over a week before the general election polling day. I am sure that this opening was also announced during the pre-election period. Unlike the opening of the Elizabeth line, this was a matter of some political controversy (as the then Mayor was seen as taking credit for the initiative of his predecessor) and yet I understand that GLA and TfL officers concluded this was acceptable.”*

***c) The TfL Commissioner’s comments***

23. The TfL Commissioner advised in his response that the decision to announce the opening of the Elizabeth line was taken by him based on an operational analysis that announcing the opening on 4 May would give staff, contractors and partners the time necessary to prepare for the start of services of the Elizabeth line before the Queen’s Platinum Jubilee weekend. The TfL Commissioner advised that he held a ‘Go/No Go’ decision meeting with the Crossrail Executive Team on 26 April to decide if he could support an opening of the Elizabeth line on the intended date of 24 May. This was a TfL internal meeting involving senior leaders who managed either the operational preparedness or running of the railway, and the decision he took was solely based on that operational input. At this meeting, the TfL Commissioner said that he decided to give a ‘conditional go’ – noting that TfL would continue its preparations towards opening on 24 May but would hold another Go/No Go meeting a week later. At that second Go/No Go meeting on 3 May, the TfL Commissioner said that he gave a ‘firm go’ for the opening of the Elizabeth line on 24 May. The TfL Commissioner advised that TfL had to announce the opening date as soon as possible after making the decision, both to ensure colleagues were briefed and third-party organisations and contractors had time to complete tasks and to ensure customers had plenty of time to plan their journeys.
24. The TfL Commissioner advised that he and TfL staff engaged with DfT and the Mayor’s team in the build up to this announcement, and that both parties were aware that the announcement could potentially take place within the pre-election period. However, he was clear that neither party influenced the timing of that decision and that TfL also considered and strictly followed relevant pre-election period guidance.

***d) Discussion***

25. It is clear from the correspondence from the Mayor and the TfL Commissioner, and indeed from the material provided by the DfT in response to this investigation, that the decision as to when the Elizabeth line would commence passenger service was planned to be taken by the TfL Commissioner, that all parties were aware that he would do so, and that he did so on 3 May 2022.
26. From the information provided to me by the DfT, the DfT were aware from 1 March 2022 that the TfL Commissioner would take this decision and TfL would lead on making the



public announcement which would be circa 4 weeks before opening which might be during the pre-election period.

27. The information gathered as part of this investigation demonstrates that officers from DfT and TfL exchanged information over the weeks following 1 March 2022 and in the run-up to the announcement. This included the sharing of communications plans for the launch (including ministerial engagements) and TfL's draft press release. Updates were provided to Ministers and their staff setting this out in formal updates on 26 March and 22 April 2022.
28. Both the Mayor and TfL Commissioner have confirmed that the Mayor was not involved in this decision making process, and that the decision was operational, based on the operational preparedness and running of the railway. They have also both confirmed that there was no representation from the Mayor's office or by GLA officers at the TfL Commissioner's go/no meetings on 26 April nor 3 May 2022.
29. It is clear to me from the information provided that the principles for the launch announcement were understood by all parties at least two months in advance, if not earlier.
30. From the information provided to me, DfT and GLA officials both (separately) provided feedback to TfL on the wording of the TfL press release shortly in advance of the date of announcement. However, it is clear that this process is not a indicative of a decision being made by the Mayor.
31. While the Mayor is the Chair of the TfL Board, I am satisfied from the information provided to me by the Mayor and the TfL Commissioner that he was not involved in taking the decision in his capacity as Chair. Although it could be suggested that the Mayor as Chair of the Board takes responsibility for the actions of TfL, it is important to consider the specific conduct of the Mayor and as noted above he was not involved in this decision either in his capacity as Mayor or as Chair of TfL Board. I also note that the TfL Commissioner states that the decision was taken by him based on an operational analysis and does not refer to this decision being made by the TfL Board.
32. It is also clear from the information provided to me by the Mayor and by the TfL Commissioner that, in his capacity as Mayor of London, the Mayor did not have any involvement in the timing of the decision to announce. I also note that the Mayor questioned the TfL Commissioner with regard to the timing of the announcement.
33. As such, I do not consider that the Mayor was involved in the decision about the timing of the announcement of the Elizabeth Line opening date during the pre-election period. As such, I do not consider that there was any breach of the Publicity Code or the Code by the Mayor.

*(ii) the subsequent statement made by the Mayor about the opening after Transport for London's (TfL) announcement.*

***a) The Mayor's statement***

34. The Mayor's statement<sup>5</sup> on the opening of the Elizabeth Line, was released on 4 May 2022 and published on the GLA's website and stated:

*The Mayor of London, Sadiq Khan, said: "I'm delighted that our world-class new Elizabeth line will be opening to passengers later this month, helping build a better London - one which is safer, fairer, greener and more prosperous city for all Londoners.*

*"This is the most significant addition to our transport network in decades, and will revolutionise travel across the capital and the south east – as well as delivering a £42 billion boost to the whole UK economy and hundreds of thousands of new homes and jobs.*

*"Green public transport is the future and the opening of the Elizabeth line is a landmark moment for our capital and our whole country, particularly in this special Platinum Jubilee year. I'm so proud of this new line and can't wait for millions of passengers to start riding on the Elizabeth line from 24 May."*

***b) Complaint and comments in support of complaint***

35. The Secretary of State's complaint states that:

*"The opening of a £19 billion project quite clearly fall foul of that definition [that 'During the period between notice of the election and the election itself, local authorities should not publish any publicity on controversial issues ... In general, local authorities should not issue any publicity which seeks to influence voters'], and it was, I believe, wholly unacceptable for the Mayor of London, in an official capacity, to disregard the requirement for heightened sensitivity the day before polling day. While there are not GLA elections, every London borough is up for election, and as you know the TfL precept is charged on every borough bill. It is therefore my understanding that the Mayor of London should have given due regard to pre-election rules."*

36. Further comments made by the Secretary of State on 5 August 2022 in support of his complaint about the Mayor includes that *"...the conventions of purdah and the handling of announcements during times of electoral sensitivity are an important part of the integrity of our democratic processes... The opening date of the Elizabeth Line was a very material announcement, conferring significant benefits on Londoners. It is our belief that the way in which the announcement was handled fell short of the standards and procedures normally expected."*

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<sup>5</sup> [Mayor's statement on the Elizabeth Line](#)

***c) Mayor's comments on the complaint***

37. The Mayor initially commented on this allegation in his letter of 27 June 2022 and stated that:

*"The Crossrail Elizabeth line project is a long-term endeavour made possible by the consistent support of Mayors, governments and political parties, all of different political persuasions. It is a project of national significance, directly or indirectly impacting all Londoners and many others, with around a third of the route outside of Greater London. To my knowledge, none of the people closely associated with the project were standing for election on 5 May, nor was it a point of contention in any local election campaigns – unsurprisingly, given the cross-party support that exists for it."*

...

*"Turning to the specific breaches of the Code of Recommended Practice on Local Authority Publicity alleged in the complaint:*

- *Para 34. "During the period between the notice of an election and the election itself, local authorities should not publish any publicity on controversial issues..." As noted above, the decision to announce the line's opening was made by TfL and they made the initial announcement. This was welcome, much anticipated and uncontroversial news, which I as Mayor and the government therefore had to respond appropriately to.*

*It would have been perverse for us, as joint sponsors of a £19 billion railway, to not make any comment on this significant news. Indeed, I believe Londoners would have felt it negligent for me not to have done so – which, given my status as a leading political figure in London, could have generated the very controversy that the rules require us to avoid. I note that the Transport Secretary also publicly welcomed the imminent opening of the line. It is notable that the complainant does not in any way set out in his letter how the announcement of the opening of the Elizabeth line was controversial. Something is not controversial merely because someone, perhaps with a political purpose in mind, alleges that it is.*

- *Para 35. "In general, local authorities should not issue any publicity which seeks to influence voters..."*

*I note that this is a separate clause to para 34 (contrary to the impression given by the complainant who merged them together). Para 35 is not specific to a pre-election period. Clearly, it cannot be the case that announcing the opening of the Elizabeth line is prohibited by this requirement.*

*Given that the opening was performed by Her Majesty The Queen, with attendees including the Prime Minister and the complainant himself, I have to reject his assertion that "the opening of a £19 billion project quite clearly falls foul of that definition."*

*As I explained above, Crossrail's Elizabeth line is a long-term, cross-party initiative, jointly sponsored by government and the Mayoralty. For most of the project's lifespan, the government and Mayor have been from different political parties. It was not a matter of debate in any local election campaign. In my statement and media appearances, I made no attempt to claim credit for its opening. Therefore, I see no evidence that the announcement of its opening would influence voters, nor was there any intention to do so, either on my part or that of the Commissioner of TfL."*

38. In a further letter from the Mayor, dated 9 August 2022, he states that:

*"The Crossrail Elizabeth line project is a long-term endeavour made possible by the consistent support of Mayors, governments and political parties all of different political persuasions. It is a project of national significance, directly or indirectly impacting all Londoners and many others, with around a third of the route outside of Greater London. To my knowledge, none of the people closely associated with the project were standing for election on 5 May, nor was it a point of contention in any local election campaigns – unsurprisingly, given the cross-party support that exists for it. We therefore considered the announcement to be neither controversial nor party-political, and I therefore believe that it cannot be said that making a statement on the announcement could be considered to improperly confer an advantage on anyone.*

*In fact the only controversy relating to the announcement was generated by the complainant himself, which reveals the party-political nature of his complaint and the abuse of process it represents.*

*As mentioned above, I understand that TfL had made the DfT aware of the timing of the announcement in advance, and the Transport Secretary's public welcoming of the announcement came shortly after the publication of the TfL press release, with a pre-prepared graphic and party-political branding.*

*The timing of the announcement in the pre-election period and the legal advice received by TfL in relation to their press release were all taken into consideration by GLA officers and me when drafting and approving my statement. Additional care was taken, and regard was had to the requirements of the Code of Recommended Practice on Local Authority Publicity. The statement was carefully drafted as a comment from the perspective of the Mayor as figurehead for the city – from the office that had promoted this landmark project through the efforts of its various occupants over the preceding years. The statement was not political or partisan and did not seek to take credit for the project.*

*In approving my Mayoral statement, I was mindful of the clear precedent established when the previous Mayor attended the opening of the London Overground during the 2010 general election campaign."*

#### ***d) Use of Resources Guidance***

39. Paragraph 6 of the Code, as set out above in (para 4 of this report), requires members of the GLA to act in accordance with the GLA's requirements with regard to publicity. These requirements are set out in the GLA's Use of Resources guidance<sup>6</sup>.
40. The GLA's Use of Resources guidance provides specific guidance concerning GLA publicity and communications which applies at all times, including during pre-election periods. It states the following.

*Para 37. "All GLA publicity should: be lawful; be cost effective; be objective; be even-handed; be appropriate; have regard to equality and diversity; be issued with care during periods of heightened sensitivity"*

41. The GLA's Use of Resources guidance provides further information regarding communications during a pre-election period. Relevant paragraphs pertaining to this matter are extracted below.

*"55. The presumption is that normal business must continue uninterrupted during the pre-election period and all GLA Group bodies must continue to discharge their statutory duties, functions and responsibilities. The only exception is where a particular initiative, proposal, consultation or publication in the period could, particularly when communicated, reasonably be regarded as being likely to affect political support for a particular candidate or political party involved in the elections. In that case, decisions will be taken by the relevant organisation's chief officers, as to (a) whether the initiative / event / announcement / other matter should be deferred until after the election and, if not, (b) whether there should be any publicity at all to support the initiative / event / announcement / other matter. Any such publicity must comply, as normal, with the provisions of the Code of Recommended Practice on Local Authority Publicity. Only in order to ensure effective coordination across the GLA Group during this period, and forward planning in respect of potentially sensitive matters, the relevant organisation should ensure that the GLA's Head of Paid Service and/or Monitoring Officer are notified, in advance, of any such decision to undertake initiatives / events and/or to issue announcements and publicity material on matters that could be regarded as significant or politically sensitive or controversial.*

*56. The Mayor, Assembly Members and GLA Group Bodies' Authority or Board Members' duties continue during the pre-election period in relation to their role at the GLA or functional bodies and they are required to devote sufficient time and attention to their duties during this period to ensure that normal business continues and statutory duties are discharged, even if they are standing as a candidate for election or re-election.*

*57. The application of these guidelines will depend on the nature of the publicity and the type of activity. Activity deemed as permissible during other times or during the period leading up to other elections, in which (for example) none of the GLA Members were standing as a candidate, might be viewed differently in the context of the Mayor of*

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<sup>6</sup> [GLA Use of Resources guidance](#)

*London and London Assembly elections. Decisions will, therefore and necessarily, have to be taken on a case-by-case basis.*

*58. All publicity and communications material issued by any of the relevant bodies during the pre-election period must be, and must be seen to be, politically neutral. Anything that could reasonably be regarded as giving a political candidate or their supporters/party an advantage in the election is not politically neutral. This applies no matter what the justifications for the publicity may be. "Publicity" refers to any communication, in whatever form, addressed to the public at large or to a section of the public and includes press releases, newsletters, consultation exercises and unsolicited letters to constituents."*

42. It also makes reference to the Publicity Code which notes that:

*"33. Local authorities should pay particular regard to the legislation governing publicity during the period of heightened sensitivity before elections and referendums ... It may be necessary to suspend the hosting of material produced by third parties, or to close public forums during this period to avoid breaching any legal restrictions.*

*34. During the period between the notice of an election and the election itself, local authorities should not publish any publicity on controversial issues or report views or proposals in such a way that identifies them with any individual members or groups of members. Publicity relating to individuals involved directly in the election should not be published by local authorities during this period unless expressly authorised by or under statute. It is permissible for local authorities to publish factual information which identifies the names, wards and parties of candidates at elections.*

*35. In general, local authorities should not issue any publicity which seeks to influence voters...*

### ***e) Discussion***

43. As mentioned above, the elections in May 2022 were London borough council elections, held across the 32 London boroughs. This was not an election for the office of the Mayor of London or London Assembly Members. During the pre-election period for the May 2022 elections, a number of statutory meetings did not take place and a limited number of decisions were taken by the Mayor during that period to ensure that there was no improper influence of voters during the election. However, in accordance with the GLA's Use of Resources Guidance, it was business as usual, and where decisions needed to be taken, such decisions continued to be made.
44. The opening of the Elizabeth Line was a significant milestone in the lifetime of the project into which enormous investment had been made, by both the GLA as well as the Government. The life of the project was such that successive Mayors and Governments and consequently, political parties, had been involved. I therefore do not consider that a reasonable person would have associated the Elizabeth Line project and its long-awaited opening with a particular political party or particular political candidate.

45. It has also been suggested that this might be considered to be a controversial issue during the local elections. However, it did not appear to me that this was an issue that was central to the local borough elections in May 2022. Neither did it appear to be a sensitive issue which generated a lot of debate that was central to the success or otherwise of any particular individual or political party. I note that Mayor expressed a similar view in his submissions. Therefore, whilst significant, I do not consider that a reasonable member of the public would be likely to be influenced to vote for a particular individual political party during the election due to the opening.
46. Although it could be suggested that the Mayor could have waited until after the election to comment on the Elizabeth Line opening so as to avoid any suggestion or allegation that his statement was trying to influence the local elections, I do not consider that this was either necessary or reasonable. As mentioned above, I do not consider that the opening of the Elizabeth Line was particularly controversial and neither do I consider that reasonable members of the public would have associated it with a particular political party – it was supported by both the GLA and the Government.
47. In addition, as the Mayor of London, I consider that Londoners would have expected the Mayor to comment on such a significant milestone in the long-awaited history of the building of the Elizabeth Line. Noting that the GLA had made significant financial contribution to its creation, I consider that had the Mayor not commented, that would have appeared unusual to members of the public. I therefore consider it was appropriate for the Mayor to make a statement. Had the Mayor chosen not to comment on this until after the elections, this in itself could have fallen foul of the Code and Code of Publicity as it could have led to speculation as to why comment was not made, thus generating some kind of political controversy over the matter – which could have influenced voters.
48. I do not consider that the Mayor acted in such a way to have used the GLA's resources improperly for political purposes. It was entirely legitimate and proper for the Mayor to comment on something that affects all Londoners. I therefore do not consider that in making a statement that, in itself, was a breach of the Code of Publicity or the Code or the GLA's Use of Resources guidance.
49. The main criticism with the statement in the immediate lead up to the local elections was that the wording might be considered to be celebratory. However, this was a momentous occasion in the history of the project and much of the statement from the Mayor had already been made by TfL. I do not consider that any part of the announcement gives credit to the Mayor in delivering the project or that any political party should be credited with pushing the project forward to achieve the opening of the line. Much of the statement is factual and does not set out the gains or triumphs of the Mayor and his support since he had been in office.
50. The Code of Publicity requires publicity that is made to be politically neutral and be seen to do so. For the reasons set out above, I do not consider that a reasonable member of the public who was considering who to vote for in the local elections would have been influenced to vote in a particular way by the statement. I also note from the Mayor's

comments that he and his office were careful and had regard to the Publicity Code when preparing the statement.

51. On balance therefore, I do not consider that the statement issued by the Mayor was in breach of the Code, the GLA's Use of Resources guidance, nor the Publicity Code.

### **Decision on alleged breach of paragraph 6**

52. I find that for the reasons set out above the Mayor has not breached paragraph 6 (a) (b) and (c) of the Code.

### **Concluding remarks**

53. In accordance with section 28 (7) of the Localism Act 2011 ('the 2011 Act'), I have sought and taken into account the views of one of the Independent Persons appointed by the GLA for the purposes of section 28. Her comments are attached at Appendix B.
54. The Independent Person and I have reached the same conclusion on this complaint, that the Mayor has not breached paragraph 6 (a), (b) and (c) of the Code.
55. As set out above, I find that the Mayor has not breached paragraph 6 (a), (b) and (c) of the Code of Conduct.
56. This Decision Notice has been sent to the complainant and the Mayor on 13 January 2023 and is available on the GLA's website.
57. There is no right to appeal to the GLA against this decision.

Signed:



Emma Strain  
GLA Monitoring Officer  
13 January 2023





HOUSE OF COMMONS  
LONDON SW1A 0AA

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[grant@shapps.com](mailto:grant@shapps.com)

Monitoring Officer  
The Greater London Authority's Monitoring Officer  
City Hall  
Kamal Chunchie Way  
London  
E16 1ZE

[BY EMAIL: [member.complaints@london.gov.uk](mailto:member.complaints@london.gov.uk)]

4 May 2022

Dear Monitoring Officer,

**Announcement by the Mayor of London of Elizabeth Line opening date during pre-election period**

I write to make a formal complaint about the announcement made by TfL, in conjunction with the Mayor of London, on 4 May 2022, on the opening date of the Elizabeth Line. While it is a very welcome development that, after years of delay and budget overruns, the project is now at a stage where it will soon welcome passengers, it is my strong belief that this announcement is in breach of the rules governing the pre-election period (purdah).

The Department for Transport was formally informed on the morning of 4 May that TfL intended to announce the opening date of the Elizabeth Line. This notification was delivered from the TfL Commissioner Andy Byford to the Department's Permanent Secretary, who questioned why the announcement needed to be made during the pre-election period. The Department was informed at that point that the Mayor would be making no public comment on the opening date, which was to be presented as an operational decision.

My Department raised concerns with TfL that making such an announcement would not be appropriate during the pre-election period, not least on the day before polls opened. As we were in the process of discussing such concerns, TfL published its press release. This was immediately followed by a pre-prepared statement from the Mayor of London, distributed from an official City Hall – rather than party political – email address. The Mayor's press office also informed us that he intended to participate in TV interviews.

It is my firm belief that both the announcement of the opening date, and the Mayor's involvement in doing so, contravened the guidance set out in the Code of Recommended Practice on Local Authority Publicity which states







*"During the period between the notice of an election and the election itself, local authorities should not publish any publicity on controversial issues ... In general, local authorities should not issue any publicity which seeks to influence voters"*

The opening of a £19 billion project quite clearly falls foul of that definition, and it was, I believe, wholly unacceptable for the Mayor of London, in an official capacity, to disregard the requirement for heightened sensitivity the day before polling day. While there are no GLA elections, every London borough is up for election, and as you know the TfL precept is charged on every borough bill. It is therefore my understanding that the Mayor of London should have given due regard to pre-election rules.

I therefore request that you investigate the Mayor's conduct in this matter as a matter of urgency, to determine whether rules were broken. Such an announcement less than 24 hours before polls opened would clearly have had an impact on the election, and it is my firm belief that the announcement should not have been made, nor should official Mayoral resources been used in responding.

I am copying this letter to the Secretary of State for Levelling Up, Housing and Communities as the holder of the Local Government Code of Recommended Practice.

Yours sincerely,

The Rt Hon. Grant Shapps MP  
**Secretary of State for Transport**

cc. The Rt Hon. Michael Gove MP, Secretary of State for Levelling Up, Housing and Communities

## **Appendix B: Statement from the Independent Person**

I am one of the Independent Persons appointed by the Greater London Authority.

I was instructed by Emma Strain, the Greater London Authority's Monitoring Officer, on 11 May 2022 in respect of a complaint brought against Sadiq Khan, the Mayor of London by Grant Shapps MP, the then Secretary of State for Transport, on 4 May 2022.

I have been kept informed by the Monitoring Officer throughout her investigation of the complaint. I have received a copy of the complaint, a copy of the correspondence from the Mayor of London on this matter and information gathered from the Secretary of State and Permanent Secretary, Department for Transport, the Mayor and from the Commissioner of Transport for London. I have also received a copy of other materials gathered as part of her investigation.

The complaints process describes the role of the Independent Person.

*4.5 The role of the independent person(s), in law, is:*

- *To give views, which must be taken into account, to the Monitoring Officer before he/she makes a decision on an allegation that he/she has decided to investigate;*
- *To give views, if requested by the Monitoring Officer, on any other allegation that has been received; and*
- *To give views to any member, or co-opted member, of the authority if that person's behaviour is the subject of an allegation.*

In this case I have been asked to give views to the Monitoring Officer before she takes her decision on the complaint she has investigated.

Having considered all of the material, I have come to the independent conclusion that I agree with the Monitoring Officer's assessment that Sadiq Khan, Mayor of London has not breached the GLA Code of Conduct.

A handwritten signature in black ink, appearing to read 'Suzanne McCarthy', with a large, stylized loop at the end.

Suzanne McCarthy  
4 January 2023